

# N A A H L

NATIONAL ASSOCIATION OF AFFORDABLE HOUSING LENDERS

CELEBRATING 30 YEARS OF SUCCESSFUL COMMUNITY INVESTMENT

July 23, 2007

## NAAHL GOLD MEMBERS

Bank of America  
Century Housing  
Countrywide Home Loans  
Harris Bank  
JPMorgan Chase  
Massachusetts Housing  
Investment Corporation  
Wachovia  
Washington Mutual Bank  
Wells Fargo & Company

## NAAHL SILVER MEMBERS

Bank of New York  
Capital One  
CITIGROUP  
HSBC Bank USA  
LaSalle Bank Corporation  
Merrill Lynch Community  
Development Company  
National City Bank  
NeighborWorks America  
The Northern Trust Company

## NAAHL BRONZE MEMBERS

Bank of the West  
California Community  
Reinvestment Corporation  
CharterMac  
Community Investment Corporation  
Enterprise  
FHLBanks  
Local Initiatives Support Corporation/  
National Equity Fund  
Low Income Investment Fund  
Neighborhood Lending Partners  
Ohio Capital Corporation For Housing  
ShoreBank

## President & CEO

Judith A. Kennedy

Jennifer J. Johnson  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551  
**Re: Docket No. OP-1288**

The National Association of Affordable Housing Lenders (NAAHL) represents America's leaders in moving private capital to those in need – 200 organizations committed to increasing private capital lending and investing in low-and moderate-income (LMI) communities. Members are the “who’s who” of private sector lenders and investors in affordable housing and community development: banks, thrifts, loan consortia, local and national nonprofits, mortgage companies, financial intermediaries, pension funds, and foundations.

We appreciate the opportunity to comment on how the Board of Governors might use rulemaking authority to curb abusive lending practices in the home mortgage market, including the subprime sector, in a way that preserves incentives for responsible lenders to provide credit to borrowers. NAAHL's mission includes ensuring that private capital is not only accessible to low- and moderate-income persons, but is provided on *fair terms*.

While many share in the responsibility for the proliferation of abusive lending, *the secondary market is a town with no sheriff*. Fannie Mae and Freddie Mac have resisted purchasing consumer-friendly, conventional, sound, prime loans made to qualified homebuyers who have little cash to bring to the closing. Both companies leave good business on the table, and so the benefits of a government sponsored secondary market have not yet flowed to many low-and moderate-income (LMI), working households. Capital market access and GSE liquidity would help primary lenders meet the credit needs of their entire communities.

Billions of dollars in CRA-eligible loans remain on the books of the originating lenders, unless and until the lenders can replenish their supply of funds to do more. Because Fannie Mae and Freddie Mac are the nation's mortgage market-makers, their practices have had a troubling, if subtle, impact. Instead of the GSEs adapting to the needs of the affordable housing market, *the market has evolved by adapting to what the GSEs will buy*.

*The GSEs are major financiers of subprime loans through purchase of mortgage-backed securities (MBS).* Fannie Mae and Freddie Mac have fueled the extreme increase in subprime loans through *portfolio investments in the triple-A rated tranches of securities backed by subprime loans*. According to the Inside Mortgage Finance newsletter, in 2004, Fannie Mae and Freddie Mac purchased 44 percent of the \$401 billion of securities backed by private label, subprime mortgages, for approximately \$176 billion; in 2005 they purchased 35 percent of the \$507 billion in MBS backed by subprime, for approximately \$178 billion; and the first half of 2006, they purchased about \$78 billion, or about 25 percent of the total subprime MBS sold during that time period.



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Second, \$200 billion dollars or more of these subprime MBS were *used by Fannie Mae and Freddie Mac for their "affordable housing" goals' credit*. The GSEs' charters direct them to "take less of a return," to "lead the industry" in ensuring that mortgage credit is available to LMI households. But HUD counted toward goals their taking "more of a return," by investing in the least risky parts of securities backed by lucrative, subprime loans.

Fortunately, the GSEs' chief regulator, the Office of Federal Housing Enterprise Oversight (OFHEO), has directed that the GSEs should follow the same guidance issued by the bank regulators, both for loan purchases and securities investments. Strengthening of the GSEs' affordable housing goals and tougher enforcement authority for OFHEO – provisions included in H.R. 1427, GSE reforms passed by the House, are both critical to rebalancing the mortgage market.

In addition to GSE reform, we suggest the following practical solutions:

1. LEVEL THE PLAYING FIELD

- a. *Close the barn doors on examination and reporting. The comprehensive examination of banks acts as a deterrent to predatory practices* among federally insured and regulated banks and thrifts. less than one-third of all mortgage lenders are insured institutions. The 50,000 non-bank lenders fall under the purview of HUD and the FTC, and do not undergo bank-like examinations.
- b. *Apply the same regulations, guidance, and examination to all mortgage lenders.*

2. BUILD ON WHAT WE KNOW WORKS

- a. Provide CRA incentives for collaborative and creative partnerships to deal with this multi-faceted challenge.
- b. *Foreclosure prevention services by nonprofit organizations have proven effective* because borrowers are more apt to approach these community groups than their lenders.

3. UPDATE THE CRA REGULATIONS

- a. Meaningful updating of CRA incentives by the bank regulators has provided a boost to all lenders' efforts to help meet the credit needs of low- and moderate-income persons.
- b. *Further updating CRA regulations to acknowledge the importance of "community development" loans* (those on homes affordable by LMI) would make a real difference in ensuring the accessibility of private capital on fair terms to low-and moderate-income persons.

Sincerely,



Judy Kennedy